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7 Attorneys for Plaintiff,  
8 GARY ZSUPNIK

9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA

11 GARY ZSUPNIK

12 Plaintiff

13 v.

14 UNITED STATES OF AMERICA

15 Defendants  
16  
17

CASE NO:

COMPLAINT FOR DAMAGES

1. NEGLIGENCE – MOTOR  
VEHICLE

18 COMES NOW PLAINTIFF GARY ZSUPNIK, complaining of  
19 Defendants and alleges as follows:  
20

21 **I.**

22 **JURISDICTION**

23 1. This action is brought pursuant to the Tort Claims Act, 28 U.S.C.  
24 §2671 et seq. Jurisdiction is founded on 29 U.S.C. §§1346(b).  
25

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27 ///

28 **II.**

## VENUE

2. Venue is proper in the Central District of California. The motor vehicle accident giving rise to this complaint occurred near 5901 E 7th St, Long Beach, CA 90822, which is within the present judicial district. Plaintiff also resides within this judicial district.

## III.

## PARTIES

3. Plaintiff GARY ZSUPNIK (hereafter "PLAINTIFF") is and at all relevant times was a resident of Los Angeles County, California.

4. At all times relevant herein, the Defendant THE UNITED STATES OF AMERICA is a governmental entity. The Defendant UNITED STATES DEPARTMENT OF VETERANS AFFAIRS was and is an agency of the Defendant THE UNITED STATES OF AMERICA

## IV.

## FACTS COMMON TO ALL ACTIONS

5. On May 16, 2015, Plaintiff Gary Zsupnik's vehicle was struck by a Veteran Affairs Hospital Security vehicle making a left turn onto Pine Road near the Long Beach Veteran Affairs Hospital. The vehicle was operated by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS' employee Adam Moore.

6. On said date, the driver of the Veterans Affairs Hospital vehicle, an employee of Defendants UNITED STATES OF AMERICA, DEPARTMENT OF VETERANS AFFAIRS drove carelessly, negligently and with extreme

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1 reckless, including, but not limited to, making a left turn without looking for  
2 oncoming traffic and yielding to such traffic.

3         7. In so executing the turn, the driver of the Veterans Affairs Hospital  
4 Security vehicle, an employee of Defendants UNITED STATES OF AMERICA,  
5 DEPARTMENT OF VETERANS AFFAIRS carelessly and negligently struck  
6 GARY ZSUPNIK'S vehicle which was proceeding straight and northbound on  
7 Pine Road, and had the right of way.

8  
9         8. On January 18, 2017, the Plaintiff submitted a claim for  
10 \$5,007,000.00 based on the allegations herein to the United States Veterans  
11 Affairs for administrative settlement. The United States denied the claim on  
12 August 3, 2017. Accordingly, Plaintiff has complied with the requirements of  
13 the Federal Tort Claims Act for the timely filing of claims. Such claims having  
14 been denied, Plaintiff hereby institutes the present lawsuit.

15  
16         9. Plaintiff originally filed this action on August 21, 2017. After  
17 discovery, the parties agreed to dismiss the lawsuit without prejudice so that Mr.  
18 Zsupnik could reapply for workers compensation benefits. Plaintiff disputed  
19 whether the matter was subject to workers compensation because he had not  
20 started work and was driving his personal vehicle. The Defendant United States  
21 disagreed.

22  
23         10. On July 26, 2018, the parties signed a stipulation to dismiss that,  
24 among other terms, the defendant United States would not assert the statute of  
25 limitations defense in the event that Plaintiff Gary Zsupnik refiled after being  
26 denied workers compensation benefits.  
27  
28

V.

## NEGLIGENT OPERATION OF A MOTOR VEHICLE

15. The UNITED STATES OF AMERICA, DEPARTMENT OF VETERANS AFFAIRS and its agents and employee acted carelessly, recklessly, unskillfully, unlawfully, tortiously, wantonly and wrongfully entrusted, permitted, managed, serviced, repaired, inspected, maintained, operated, controlled, and drove the Veterans Affairs vehicle as to proximately cause the same to collide against the vehicle in which Plaintiff, GARY ZSUPNIK, was

1 then driving, as aforesaid, thereby proximately causing the injuries and damages  
2 hereinafter mentioned.

3 16. The UNITED STATES OF AMERICA, DEPARTMENT OF  
4 VETERANS AFFAIRS employee, ADAM MOORE, was also negligent in  
5 failing to keep attentive as to his or her whereabouts and oncoming traffic. Said  
6 Defendant knew or should have known that there was oncoming traffic and  
7 attempting a left turn in front of said traffic would be unsafe, all of which  
8 negligence, carelessness and recklessness constituted the proximate cause of him  
9 striking the Plaintiff.  
10

11 17. As a proximate result of each and all of the aforesaid acts and  
12 omissions of the Defendants, Plaintiff was injured about his body and its  
13 members and was rendered sick, sore, lame and disabled, and was injured in  
14 health, strength and activity, a portion of said injuries being permanent. As a  
15 result of said injuries, Plaintiff has had, and in the future will have, physical,  
16 mental and emotional pain, suffering, worry and anxiety.  
17

18 18. As a proximate result of each and all of the aforesaid acts and  
19 omissions of the Defendants, Plaintiff suffered grave and serious mental anguish,  
20 fear, anxiety and illness, a portion of said injuries being permanent. As a  
21 proximate result of said injuries and damages, Plaintiff has had, and in the future  
22 will have, physical, mental and emotional pain, suffering, worry and anxiety.  
23

24 19. By reason of said injuries, Plaintiff has incurred, and probably will  
25 incur in the future, hospital, surgical, ambulance, medical, nursing and household  
26 expenses, all to his further damage.  
27

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20. By reason of said injuries, Plaintiff was unable to do his usual work for a period of time, has been unable to do a portion of his work since that time, will be partially disabled in the future and have sustained damage to his future earning capacity, all to their damage, according to proof.

21. By reason of said injuries, Plaintiff has sustained damage to his future earning capacity, all to his further damage, according to proof.

22. As a proximate result of each and all of the aforesaid acts and omissions of the Defendants, Plaintiffs' vehicle sustained approximately \$6,979.45 dollars in damage.

23. By reason of said collision, Plaintiff was deprived of the use of an automobile for a period of time, all to Plaintiffs' further damage, according to proof.

## VI.

### PRAYER

WHEREFORE, Plaintiff demands the following relief, jointly and severally, against all the Defendants;

a) For damages for injuries sustained due to the negligence of the UNITED STATES OF AMERICA; DEPARTMENT OF VETERANS AFFAIRS agent and employees, including past and future medical expenses, lost wages, loss of earning capacity, pain and suffering, mental anguish, and all other appropriate damages resulting from his injuries in the sum of \$5,006,979.45;

b) Costs of suit necessarily incurred herein; and

c) Such further relief as the Court deems just or proper.

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1 DATE: September<sup>7</sup>, 2018

POCRASS & DE LOS REYES LLP

2 By: 

3 JONATHAN E. HOWELL

4 Attorneys for Plaintiff,

5 GARY ZSUPNIK